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THE CHARTER
ACTS OF 1916 CHAPTER 300

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ESSEX COUNTY, MASS.

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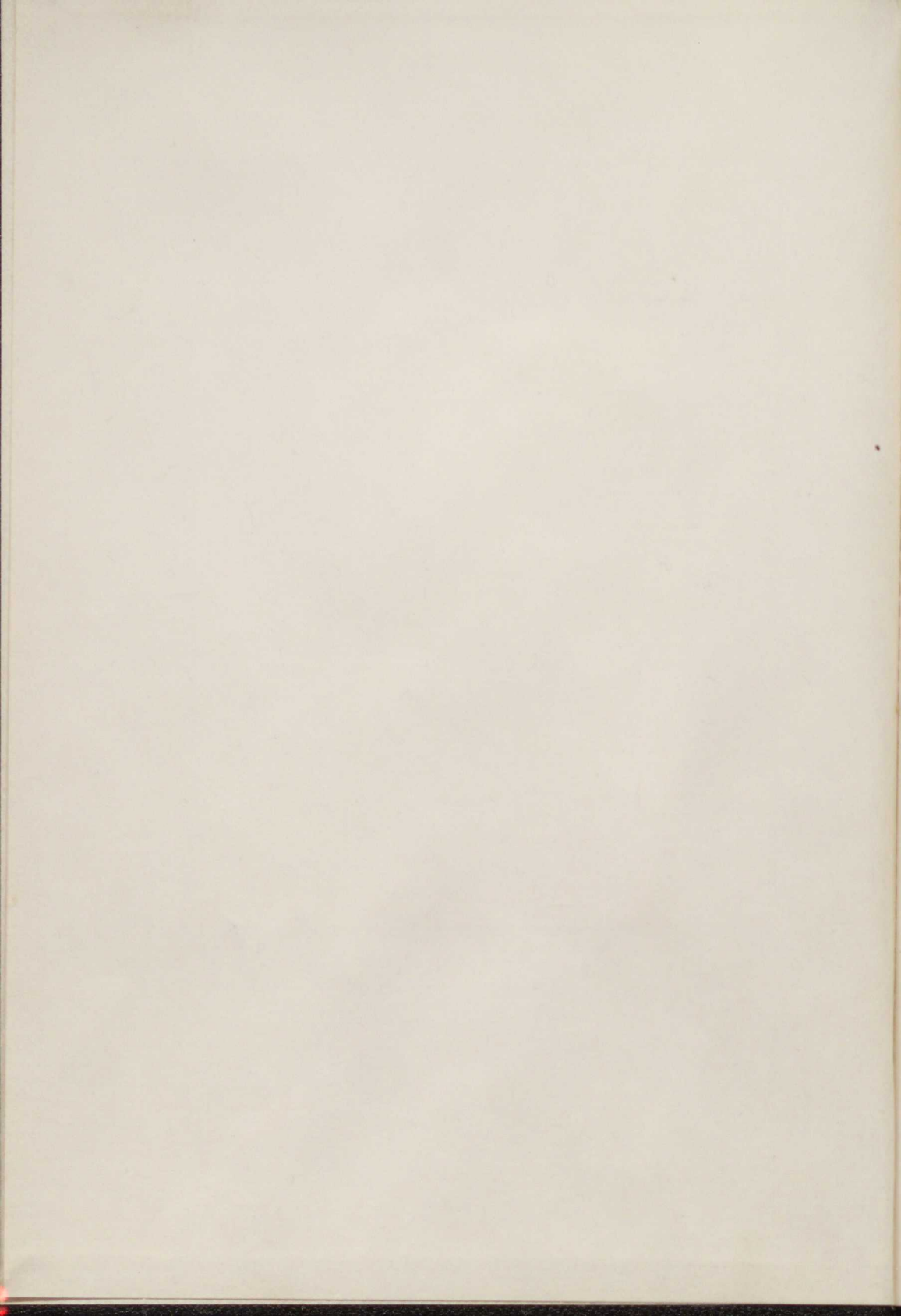
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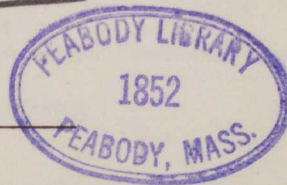


THE CHARTER

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THE CHURCH

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REVIEW

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THE CHARTER.

(Acts of 1916, Chapter 300)

Editor's note.—The charter of the city is presented here as passed by the General Court. A frontal analysis and catchlines to the various sections have been added for the convenience of the user.

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- § 2. Division into wards; minimum number of wards; first election.
- § 3. First meeting of mayor and council; first meeting of school committee.
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Sec. 1. Incorporation.

The inhabitants of the town of Peabody, shall continue to be a body corporate and politic, under the name of the City of Peabody, and as such shall have, exercise and enjoy all the rights, powers, privileges and immunities, and shall be subject to all the duties and obligations provided for herein or by statute or otherwise pertaining to cities as municipal corporations.

Sec. 2. Division into wards; minimum number of wards; first election.

Upon the acceptance of this act the selectmen of the town then in office shall forthwith divide the territory thereof into

six wards, so that the wards will contain, as nearly as may be consistent with well-defined limits, an equal number of voters, and they shall designate the wards by number. The wards may in any year fixed by law for a new division of wards in cities, be changed by a vote of the municipal council with the assent of the mayor; but the number of wards shall never be less than six. The selectmen, for the purpose of the first preliminary election held according to the provisions of this act and of the first municipal election which will take place on the third Tuesday of December next succeeding the acceptance of this act, shall provide suitable polling places and give notice thereof, and shall at least ten days before said preliminary election appoint all proper election officers therefor; and they shall in general have the powers and perform the duties of the mayor and board of aldermen in cities under chapter eight hundred and thirty-five of the acts of the year nineteen hundred and thirteen, and acts in amendment thereof and in addition thereto, the provisions of which, so far as they may be applicable, shall apply to said election; and the town clerk shall perform the duties therein assigned to city clerks. The registrars shall cause to be prepared and published according to law lists of qualified voters in each of the wards established by the selectmen.

Sec. 3. First meeting of mayor and council; first meeting of school committee.

The selectmen shall notify the persons elected at the said first election, and shall provide and appoint a place for the first meeting of the mayor and council on the first Monday in January next ensuing; and shall, by written notice left at their respective places of residence at least twenty-four hours prior to such meeting, notify the mayor elect and councilmen elect, who shall immediately proceed to organize and carry into effect the provisions of this act, which shall thereupon have full force and effect. The selectmen shall, in like manner, appoint a place and time for the first meeting of the school committee, and shall notify the members thereof.

Sec. 4. Mayor; term of office.

There shall be a mayor, elected by and from the qualified voters of the city, who shall be the chief executive officer of

the city. He shall hold office for the term of two years from the first Monday in January following his election and until his successor is elected and qualified.

Sec. 5. City council; president of council; term of office.

The legislative powers of the city shall be vested in a city council, composed of eleven members, one of whom shall be elected from each of the six wards by and from the qualified voters of that ward, and the remaining members shall be elected at large by and from the qualified voters of the city. One of the members shall be elected annually by the council as its president. At the first city election after the acceptance of this act the councillors elected from each ward shall serve for one year and those elected at large, for two years from the first Monday of January following their election and until their successors are elected and qualified. And at each annual city election thereafter their respective successors shall be elected to serve for two years.

Sec. 6. Appointment of heads of departments by mayor; appointment of city solicitor; election of trustees of Josiah B. Thomas Hospital.

All heads of departments and members of municipal boards, but excluding the school committee, officials appointed by the governor, the trustees of the Peabody Institute, and the trustees of the Josiah B. Thomas Hospital shall be appointed by the mayor, subject to confirmation by the city council; but the city solicitor shall be appointed by the mayor without such confirmation. The present board of trustees of the Josiah B. Thomas Hospital shall continue in office for the terms for which they have been elected. As vacancies occur in said board, trustees to fill the same shall be elected to serve for terms of five years, or, in the case of an unfinished term, for the remainder of such term, by the five members of the city council elected at large and the remaining trustees sitting in joint convention.

Sec. 7. Removal of department heads and members of boards.

The mayor, with the approval of a majority of the members of the city council, may remove any head of a department or

member of a board before the expiration of his term of office, except members of the school committee, the trustees of the Peabody Institute and officials appointed by the governor. The person so removed shall receive the reasons for his removal in writing, and he may contest the same at a hearing to be given by the city council, at which he shall have the right to be represented by counsel.

Sec. 8. Salary of mayor and council.

The mayor shall receive for his services such salary as the city council by ordinance shall determine, not exceeding two thousand dollars a year, and he shall receive no other compensation from the city. His salary shall not be increased or diminished during the term for which he is elected. The council may, by a two thirds vote of all its members, taken by call of the yeas and nays, establish a salary for its members not exceeding two hundred and fifty dollars each a year. Such salary may be reduced, but no increase therein shall be made to take effect during the year in which the increase is voted.

Sec. 9. Approval of ordinances, resolutions, etc., by mayor.

Every order, ordinance, resolution and vote relative to the affairs of the city, adopted or passed by the city council, shall be presented to the mayor for his approval. If he approves it he shall sign it; if he disapproves it he shall return it, with his objections in writing, to the city council, which shall enter his objections at large on its records, and again consider it. If the city council, notwithstanding such disapproval of the mayor, shall again pass the order, ordinance, resolution or vote by a two thirds vote of all the members of the city council, it shall then be in force, but the vote shall not be taken for seven days after its return to the city council. Every such order, ordinance, resolution or vote shall be in force if it is not returned by the mayor within ten days after it has been presented to him. Nothing in this section shall be construed as superseding or in any way affecting any provision of chapter seven hundred and nineteen of the acts of the year nineteen hundred and thirteen.

Sec. 10. Placing names on official ballots.

Except as is otherwise provided herein, there shall not be printed on the official ballots to be used at any annual or special city election the name of any person as a candidate for any office mentioned in this act unless such person be nominated as such candidate at a preliminary election for nominations, to be held as provided in this act. There shall not be printed on the official ballots to be used at a preliminary election for nominations the name of any person as a candidate for nomination at such preliminary election, unless such person shall have filed, within the time limited by section twelve of this act, the statement described in section twelve.

Sec. 11. Preliminary election for nominations; applicability of law of the commonwealth.

On the third Tuesday preceding every city election at which any officer mentioned in this act is to be elected, there shall be held a preliminary election for the purpose of nominating candidates for such offices as, under the provisions of this act, are to be filled at such city election. Voters qualified to vote at a city election shall be qualified to vote at a preliminary election. No special election for mayor or any other officer shall be held until after the expiration of forty days from the calling of the preliminary election, except as is otherwise provided herein. At every annual, preliminary, and special election the polls shall be opened at forty-five minutes past five o'clock in the forenoon and shall be kept open until four o'clock in the afternoon. The laws of the commonwealth relative to annual city elections shall apply to all preliminary, special and annual elections held under this act, except as is otherwise specifically provided herein, but nothing herein shall be held to prohibit the sale of liquors on days of preliminary elections.

Sec. 12. Eligibility of candidates; statement and petition.

Any person who is qualified to vote for a candidate for any office mentioned in this act, and who is a candidate for nomination for that office, may have his name as such candidate printed on the official ballot to be used at a preliminary election: *provided*, that at least ten days prior to the preliminary

election, he shall file with the city clerk a statement in writing of his candidacy, and with it the petition of at least fifty voters of the city, qualified to vote for a candidate for the said office. Said statement and petition shall be in substantially the following form:

STATEMENT OF CANDIDATE.

I, (), on oath declare that I reside at (number if any) on (name of street) in the city of Peabody; that I am a voter therein, qualified to vote for a candidate for the hereinafter mentioned office; that I am a candidate for nomination for the office of (state the office) for (state the term) to be voted for at the preliminary election for nominations to be held on Tuesday, the day at , nineteen hundred and , and I request that my name be printed as such candidate on the official ballots to be used at said preliminary election.

(Signed)

Commonwealth of Massachusetts. Essex ss.

Subscribed and sworn to on this day of
nineteen hundred and
before me,

(Signed)

Justice of the Peace or (Notary Public)

PETITION ACCOMPANYING STATEMENT OF CANDIDATE

Whereas (name of candidate) is a candidate for nomination for the office of (state the office) for (state the term), we the undersigned, voters of the city of Peabody, duly qualified to vote for a candidate for said office, do hereby request that the name of said (name of candidate) as a candidate for nomination for said office be printed on the official ballots to be used at the preliminary election to be held on the Tuesday of , nineteen hundred and . We further state that we believe him to be of good moral character and qualified to perform the duties of the office.

No acceptance by a candidate for nomination named in the said petition shall be necessary for its validity or for its filing, and the petition need not be sworn to. The petition may be on one or more papers.

Sec. 13. Women qualified to vote and to be candidates for school committee.

Women who are qualified to vote for members of the school committee may be candidates for nomination for that office at any preliminary election at which candidates for the same are to be voted for, and at such preliminary election may vote for, and only for, candidates for nomination thereto. They shall file the above described statement of the candidate and the petition accompanying the statement of the candidate in all cases where the same are hereby required to be filed by male candidates for nomination to that office.

Sec. 14. Names of candidates to be posted.

On the first day, not being Sunday or a legal holiday, following the expiration of the time for filing the above described statements and petitions, the city clerk shall post in a conspicuous place in the city hall the names and residences of the candidates for nomination who have duly filed the above mentioned statements and petitions, as they are to appear on the official ballots to be used at the preliminary election, except as to the order of the names, and shall cause the ballots to be printed, and the ballots so prepared shall be the official ballots and the only ballots used at the preliminary election. They shall be headed as follows:

OFFICIAL PRELIMINARY BALLOT.

Candidates for nomination for the offices of ()
in the city of Peabody. At a preliminary election to be
held on the day of in
the year nineteen hundred and
(The heading shall be varied in accordance with the offices
for which nominations are to be made.)

Sec. 15. Names to be printed on ballot; official preliminary ballot for women.

The name of each person, and of none other, who has filed a statement and accompanying petition as aforesaid with his residence and the title and term of the office for which he is a candidate for nomination, shall be printed on said ballots under the designation of said office in the order in which they

may be drawn by the city clerk, whose duty it shall be to make such drawing and to give each candidate an opportunity to be present in person or by one representative. Blank spaces shall be left at the end of each list of candidates for nomination for the different offices equal to the number to be nominated therefor, in which the voter may insert the name of any person not printed on the ballot for whom he desires to vote for nomination for such office. There shall be printed on said ballots such directions as will aid the voter, as to-wit, "vote for one", "vote for two", and the like.

There shall also be a ballot headed as follows:

OFFICIAL PRELIMINARY BALLOT FOR WOMEN.

Candidates for nomination for members of school committee of the city of Peabody. At a preliminary election held on the
day of in the year
nineteen hundred and

Then shall follow the names and residences of the same candidates for nomination for school committee as are on the regular official ballot for such preliminary election, and the titles and term of that office, and shall be prepared in like manner and printed for the use of women qualified to vote for members of the school committee.

Sec. 16. Designation of political party prohibited.

No ballot used at any preliminary, special or annual city election shall have printed thereon any party or other political designation or mark, and there shall not be appended to the name of any candidate any such party or other political designation or mark, or anything showing how he was nominated, or indicating his views or opinions.

Sec. 17. Counting and return of ballots.

The election officers shall, immediately upon the closing of the polls at preliminary elections, count the ballots and ascertain the number of votes cast in the voting places where they officiate for each person for nomination for each office, and shall forthwith make return thereof to the city clerk upon blanks to be furnished as in city elections.

Sec. 18. Canvass of returns.

On the first day, not being a legal holiday, following the preliminary election, the city clerk shall canvass the returns received from the election officers, and shall forthwith determine the result of the canvass and publish the same in one or more newspapers published in the city, and shall post the same in a conspicuous place in the city hall.

Sec. 19. Determination of candidates from preliminary election.

If any person receives at a preliminary election a majority of all the votes cast for the office for nomination to which he was a candidate, he shall be deemed and declared elected thereto, provided that at said election at least eighty per cent of the total registered vote of the city shall be cast; otherwise the two persons receiving at a preliminary election the highest and second highest number of votes, respectively, for any office, shall be the candidates and the only candidates for that office whose names shall be printed on the official ballots to be used at the succeeding annual or special city election. If two or more persons are to be elected to the same office at such annual or special election, the several persons, to a number equal to twice the number so to be elected to such office, receiving the highest number of votes for nomination for that office, or all such persons if less than twice the number of those so to be elected, shall be candidates, and the only candidates for that office whose names shall be printed on the official ballots to be used at such annual or special city election. The names shall be printed on the ballots under the designation of the respective offices for which they are candidates in the order in which they may be drawn by the city clerk as provided in section fifteen. In case two or more persons should receive an equal number of votes for the same office at any preliminary election held under this act, the names of all such persons shall be placed on the ballot.

Sec. 20. Acceptance of nomination not necessary.

No acceptance of a nomination made at a preliminary election shall be necessary for its validity.

Sec. 21. Date of official election.

The first city election shall take place on the third Tuesday of December following the acceptance of this act, and thereafter the city election shall take place annually on the Tuesday next following the first Monday of December, and the municipal year shall begin and end at ten o'clock in the morning of the first Monday of January in each year.

Editor's note.—See chapter 338, Acts of 1936, contained in chapter 2 of Part I of this Code, for a change in this section.

Sec. 22. Oath of office.

On the first Monday in January at ten o'clock in the forenoon, the mayor-elect and the councillors elect shall meet and be sworn to the faithful discharge of their duties. The oath may be administered by the city clerk or by any justice of the peace, and a certificate that the oath has been taken shall be entered on the journal of the city council. At any meeting thereafter the oath may be administered, in the presence of the city council, to the mayor, or to any councillor absent from the meeting on the first Monday in January.

Sec. 23. Legislative powers of council; voting; quorum; rules; city clerk.

Except as is specifically provided in this section, the legislative powers of the city council may be exercised as provided by ordinance or rule adopted by it.

1. Every member of the council shall have the right to vote on any question coming before it. A majority of the council shall constitute a quorum, and the affirmative vote of a majority of all the members of the council shall be necessary to adopt any motion, resolution or ordinance.

2. The city council shall, from time to time, establish rules for its proceedings. Regular and special meetings of the council shall be held at a time and place fixed by ordinance. All legislative sessions shall be open to the public, and every matter coming before the council for action shall be put to vote the result of which shall be duly recorded. A full and accurate journal of the proceedings of the council shall be kept, and shall be open to the inspection of any registered voter of the city.

3. The council shall, by a majority vote, elect a city clerk to hold office for the term of three years and until his successor is elected and qualified. He shall have such powers and perform such duties as the council may from time to time prescribe in addition to such duties as may be prescribed by law. He shall keep the records of the meetings of the council.

The person holding the office of town clerk at the time when this act is accepted shall continue to hold office until the city clerk is elected and qualified.

Sec. 24. City council may request information from mayor, etc.

The city council may at any time request from the mayor specific information on any municipal matter within its jurisdiction, and may request him to be present to answer written questions relating thereto at a meeting to be held not earlier than one week after the date of the receipt by the mayor of said questions. The mayor shall personally, or through the head of a department or a member of a board, attend such meeting and publicly answer all such questions. The person so attending shall not be obliged to answer questions relating to any other matter. The mayor at any time may attend and address the city council in person or through the head of a department or a member of a board, upon any subject.

Sec. 25. Passage of ordinances.

No ordinance shall be passed finally on the date on which it is introduced, except in cases of special emergency involving the health or safety of the people or their property.

No ordinance shall be regarded as an emergency measure unless the emergency is defined and declared in a preamble thereto separately voted on and adjudged to be such by the affirmative vote of two thirds of the members of the city council.

No ordinance making a grant, renewal or extension, whatever its kind or nature, of any franchise or special privilege shall be passed as an emergency measure, and except as is provided in chapter one hundred and twenty-two of the Revised Laws and sections one hundred and twenty-six and one hundred and twenty-seven of chapter seven hundred and forty-

two of the acts of the year nineteen hundred and fourteen and acts in amendment thereof and in addition thereto, no such grant, renewal or extension shall be made otherwise than by ordinance.

Sec. 26. Amendment of ordinances.

No ordinance or part thereof shall be amended or annulled except by another ordinance adopted in accordance with the provisions of this act.

Sec. 27. Passage of ordinances at one session.

Except as provided in sections twenty-five and twenty-eight, any ordinance, order or resolution may be passed through all its stages of legislation at one session, provided that no member of the council objects thereto; but if any member of the council objects, the measure shall be postponed to a subsequent meeting.

Sec. 28. Ordinances, etc., to be published.

Every proposed ordinance or loan order, except emergency measures as hereinbefore defined, shall, at least ten days before its final passage, be published once in full in at least one newspaper of the city, and in any additional manner that may be provided by ordinance. After such final passage, it shall, in the same manner as before, again be published once, as amended and completed, except in the case of an emergency ordinance which may be passed as hereinbefore provided and which shall take effect on its passage, and shall be published in the manner specified above, at the earliest practicable moment.

Sec. 29. Existing obligations to remain in force.

All official bonds, recognizances, obligations, contracts and all other instruments entered into or executed by or to the town of Peabody before this act takes effect, and all taxes, special assessments, fines, penalties and forfeitures incurred or imposed, due or owing to the town, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except as is otherwise provided herein shall continue

without abatement and remain unaffected by this act; and no legal act done by or in favor of the town shall be rendered invalid by the acceptance of this act.

Sec. 30. Civil service not to apply to certain officials.

The civil service laws shall not apply to the appointment of the mayor's secretaries or of the stenographers, clerks, telephone operators and messengers connected with his office, and the mayor may remove such appointees without a hearing and without making a statement of the cause for their removal.

Sec. 31. How certain vacancies filled; acting mayor; temporary appointments.

If a vacancy occurs in the office of mayor or in the city council before the last six months of the term of office, the city council shall order an election to fill the same for the unexpired term; and if such vacancy occurs in the office of mayor in the last six months of said term, the president of the city council shall succeed thereto for the unexpired term. If the mayor is absent or temporarily unable from any cause to perform his duties they shall be performed by the president of the city council, who shall for the time being be designated "acting mayor", and shall possess the powers of mayor only in matters not admitting of delay, but shall have no power to make permanent appointments.

Should an appointive officer of the city be temporarily unable for any cause to perform his duties, the council or the mayor, having the power of original appointment, may designate a temporary appointee to act until such officer shall resume his duties.

Sec. 32. Certain officials not to make or share contracts, etc., with city; penalty.

It shall be unlawful for the mayor or any member of the city council or school committee, or for any officer or employee of the city, directly or indirectly to make a contract with the city, or to receive any commission, discount, bonus, gift, contribution, or reward from or any share in the profits of any person or corporation making or performing such a contract, unless the mayor, such member, officer or employee, imme-

diately upon learning of the existence of the contract, or that such a contract is proposed, shall notify in writing as the case may be the mayor, city council or school committee of the nature of his interest in the contract, and shall abstain from doing any official act on behalf of the city in reference thereto. In case of such interest on the part of an officer whose duty it is to sign the contract on behalf of the city, the same may be signed by any other officer of the city duly authorized thereto by the mayor, or if the mayor has such interest, by the city clerk; *provided, however,* that when a contractor with the city is a corporation or a voluntary stock association, the ownership of less than five per cent of the stock or shares actually issued shall not be considered as involving an interest in the contract within the meaning of this section, and such ownership shall not affect the validity of the contract unless the city officer or employee is also an officer or agent of the corporation or association, or solicits or takes part in the making of the contract.

A violation of this section shall render the contract in respect to which such violation occurs voidable at the option of the city. Any person violating the provisions of this section shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Sec. 33. Proposals for contracts to be advertised.

No contract for construction work or for the purchase of apparatus, supplies or materials, whether the same shall be for repairs or original construction, the estimated cost of which amounts to or exceeds two hundred dollars, except in cases of special emergency involving the health or safety of the people or their property, shall be awarded unless proposals for the same shall have been invited by advertisements in at least one newspaper published in the city once a week for at least two consecutive weeks, the last publication to be at least one week before the time specified for the opening of the proposals. Such advertisements shall state the time and place where plans and specifications of the proposed work or supplies may be had, and the time and place for opening the proposals in answer to said advertisements, and shall reserve to the city the right to reject any or all proposals. All such pro-

posals shall be opened in public. No bill or contract shall be split or divided for the purpose of evading any provision of this act.

Sec. 34. Mayor to approve certain contracts.

All contracts made by any department, board or commission in which the amount involved is two hundred dollars or more shall be in writing, and no such contract shall be deemed to have been made or executed until the approval of the mayor and of the department or board making the contract is affixed thereto. Any contract made as aforesaid may be required to be accompanied by a bond with sureties satisfactory to the board or official having the matter in charge, or by a deposit of money, certified check or other security conditioned on the faithful performance thereof, and such bonds or other securities shall be deposited with the city treasurer until the contract has in all respects been carried out; and no such contract shall be altered except by a written agreement of the contractor, the sureties on his bond, and the officer, department or board making the contract, with the approval of the mayor affixed thereto.

Sec. 35. Condemnation of land for municipal purposes.

At the request of any department, and with the approval of the mayor and the city council, the city council may take in fee, in the name of the city, for any municipal purpose any land within the limits of the city not already appropriated to public use. Whenever the price proposed to be paid for a lot of land for any municipal purpose is more than twenty-five per cent higher than its average assessed valuation during the previous three years, the land shall not be purchased but shall be taken by right of eminent domain and paid for in the manner provided for the taking of, and the payment of damages for, land taken for highways. No land shall be taken until an appropriation by loan or otherwise for the general purpose for which the land is needed shall have been made by the mayor and city council, by a two thirds vote of all its members; nor shall a price be paid in excess of the appropriation, unless a larger sum is awarded by a court of competent jurisdiction. All proceedings in the taking of land shall be under the advice of the law department, which shall keep a record thereof.

Sec. 36. School committee—Composition; election; term.

The school committee shall consist of the mayor, who shall be the chairman, and six members who shall be elected at large. At the first annual city election there shall be elected two members to serve for one year, two for two years and two for three years, and annually thereafter there shall be elected two members to serve for the term of three years and until the election and qualification of their successors.

Sec. 37. Same—Election of superintendent of schools, etc.; organization.

This school committee shall elect annually a superintendent of schools, and may, under the civil service laws and regulations, appoint, suspend or remove at pleasure such subordinate officers or assistants, including janitors of school buildings, as it may deem necessary for the proper discharge of its duties and the conduct of its business; shall define their terms of service and their duties, and shall fix their compensation. No member of the school committee, except the mayor, shall, during the term for which he is elected, hold any other office or position the salary or compensation for which is payable out of the city treasury. The committee shall organize annually on the first Monday in January, and shall elect one of its members as vice-chairman, whose duty it shall be to preside at all meetings of the committee at which the mayor is not present.

Sec. 38. Same—Powers and duties.

The school committee, in addition to the powers and duties conferred and imposed by law on school committees, shall have power to provide, when they are necessary, temporary accommodations for school purposes, and shall have the control of all school buildings and of the grounds connected therewith, and shall have power to make all repairs the expenditures for which are made from the regular appropriation for the school department, except as is otherwise provided herein.

Sec. 39. Same—Approval of sites, plans, etc., for school buildings.

No site for a school building shall be acquired by the city unless the approval of the site by the school committee is first

obtained. No plans for the construction of or alterations in a school building shall be accepted, and no work shall be begun on the construction or alteration of a school building, unless the approval of the school committee and the mayor therefor is first obtained. Nothing herein contained shall require such approval for the making of ordinary repairs.

Sec. 40. Same—To make regulations.

The school committee shall make all reasonable rules and regulations for the management of the public schools of the city and for conducting the business of the committee, provided that such rules are not inconsistent with any laws of the commonwealth.

Sec. 41. Same—Meetings to be open to public.

All meetings of the school committee shall be open to the public, except that, when requested by not less than four members of the committee, any particular meeting shall be private. The vote on any particular measure shall be by call of the yeas and nays, when it is so requested by not less than two members of the committee.

Sec. 42. Same—Vacancies.

If a vacancy occurs in the school committee by failure to elect, or otherwise, the city council and the remaining members of the school committee shall meet in joint convention and elect a suitable person to fill the same until the next annual city election. The mayor, if present, shall preside at the convention.

Sec. 43. Trustees of Peabody Institute.

The trustees of the Peabody Institute shall consist of twelve members, each of whom shall hold office for a term of six years, and until the qualification of their successors, beginning with the first Monday of January following their election. At the first city election hereunder, two trustees shall be elected in succession to those two of the present members of said board, holding office under the town of Peabody, whose terms expire in the year following said election; and at every subsequent city election, two members shall be elected in succes-

sion to such others as now hold office under said town or to such as are elected under the provisions hereof, whose terms expire in the year following said election.

Sec. 44. Initiative petitions—Generally.

A petition meeting the requirements hereinafter specified and requesting the city council to pass an ordinance, resolution, order or vote, except an order granted under the provisions of chapter one hundred and twenty-two of the Revised Laws and sections one hundred and twenty-six and one hundred and twenty-seven of chapter seven hundred and forty-two of the acts of the year nineteen hundred and fourteen and acts in amendment thereof and in addition thereto, or requesting the school committee to pass a resolution, order or vote, all of these four terms being hereinafter included in the term "measure", therein set forth or designated, shall be termed an initiative petition, and shall be acted upon as hereinafter provided.

Sec. 45. Same—Signatures; certification of registered voters.

Signatures to initiative petitions need not be all on one paper. All such papers pertaining to any one measure shall be fastened together and shall be filed in the office of the city clerk as one instrument, with the endorsement thereon of the names and addresses of three persons designated as filing the same. With each signature to the petition shall be stated the place of residence of the signer, giving the street and number, if any.

Within five days after the filing of the petition the registrars of voters shall ascertain by what number of registered voters the petition is signed, and what percentage that number bears to the total number of registered voters, and shall attach thereto their certificate showing the result of such examination.

The city clerk shall forthwith transmit the said certificate with the said petition to the city council or to the school committee, as the case may be, and at the same time shall send a copy of the certificate to one or more of the persons designated on the petition as filing the same.

Sec. 46. Same—Action by city council.

If any initiative petition be signed by registered voters equal in number, except as is otherwise provided in this act, to at least twenty per cent of the whole number of registered voters, the city council or the school committee shall, within twenty days after the date of the certificate of the registrars of voters that the petition has been signed by the required percentage of registered voters, either:

1. Pass said measure without alteration, subject to the referendum vote provided for by this act or,

2. The city council shall call a special election to be held on a Tuesday fixed by it not less than thirty nor more than forty-five days after the date of the certificate hereinbefore mentioned, and shall submit the proposed measure without alteration to a vote of the registered voters of the city at that election; *provided, however*, that if any city election is otherwise to occur within ninety days after the date of said certificate the city council may, at its discretion, omit calling the special election and submit the proposed measure to the voters at such other approaching election.

Sec. 47. Same—Referendum.

If an initiative petition be signed by registered voters equal in number to at least eight per cent but less than twenty per cent of the total number of registered voters, and said measure be not passed without alteration within twenty days by the city council or the school committee, as provided in the preceding section, then such proposed measure, without alteration, shall be submitted by the city council to a vote of the registered voters of the city at the next annual city election.

Sec. 48. Protests to measures passed by city council.

If within twenty days after the final passage of any measure by the city council or by the school committee a petition signed by registered voters of the city, equal in number to at least twelve per cent of the total number of registered voters, be presented to the city council or to the school committee, as the case may be, protesting against such measure or any part thereof, the same shall thereupon and thereby be suspended from taking effect; and the city council or the school

committee, as the case may be, shall immediately reconsider such measure or part thereof: and if such measure or part thereof be not entirely annulled, repealed or rescinded, the city council shall submit the same, by the method herein provided, to a vote of the qualified voters of the city, either at the next regular city election, or at a special election which may, in its discretion, be called for the purpose, and such measure or part thereof shall forthwith become null and void unless a majority of the qualified voters voting on the same at such election shall vote in favor thereof.

The petition provided for by this section shall be termed a referendum petition.

The procedure in respect to the referendum petition shall be the same as that provided by section forty-seven of this act, except that the words "measure or part thereof protested against" shall for this purpose be understood to replace the word "measure" in that section wherever it may occur, and that the word "referendum" shall be understood to replace the word "initiative" in that section.

Sec. 49. Women voters to be counted.

For the purposes of this act, the number of registered women voters shall be counted in fixing the requisite number of signatures for initiative and referendum petitions as to measures affecting the public schools, and on the same they shall have the right to vote and to sign initiative and referendum petitions. But the number of such women voters shall not be counted in fixing the number of signatures on such petitions relating to other than school matters.

Sec. 50. City council may submit questions to voters.

The city council may, of its own motion, and shall, upon request of the school committee in case of a measure originating with that committee and pertaining to the affairs under its administration, submit to a vote of the registered voters of the city for adoption or rejection at a general or special city election any proposed measure, or a proposal for the annulment, repeal or amendment of any measure, in the same manner and with the same force and effect as are hereby provided for submission on petition.

Sec. 51. Effect of measures passed at election with conflicting provisions.

If two or more proposed measures passed at the same election contain conflicting provisions, that one of the measures which received the larger number of affirmative votes shall take effect and the other to the extent of the inconsistency, shall be void.

Sec. 52. Ballots to show nature of measure; number of votes necessary to pass.

The ballots used in voting upon any such proposed measure shall state the nature thereof in terms sufficient to show its substance. No measure shall go into effect unless it receives the affirmative votes of at least a third of the whole number of registered voters.

Sec. 53. Rights, legal proceedings, etc., not affected by charter.

The passage or acceptance of this act shall not affect any rights accruing or accrued, or any suit, prosecution or any penalty or forfeiture previously incurred or other legal proceeding pending at the time when this act shall go into operation, wherein the town of Peabody is a party or in any way interested. All persons then holding office in said town shall continue to hold the same, notwithstanding the passage thereof, until the organization of the city government shall be effected, and until their successors shall be elected, or appointed, and qualified. All laws, bylaws, rules and regulations, general or special, relating to the town of Peabody, in force at the time of the passage of this act, shall, until altered, amended or repealed, continue in force in the city of Peabody, so far as the same are not inconsistent herewith.

Sec. 54. Definitions.

The words "officer", "officers", "administrative officers", "ordinance" and the terms "registered voter" and "regular municipal election", as used in this act shall have the same meaning which they have in section one Part I of chapter two hundred and sixty-seven of the General Acts of the year nineteen hundred and fifteen.

Sec. 55. Acceptance of charter.

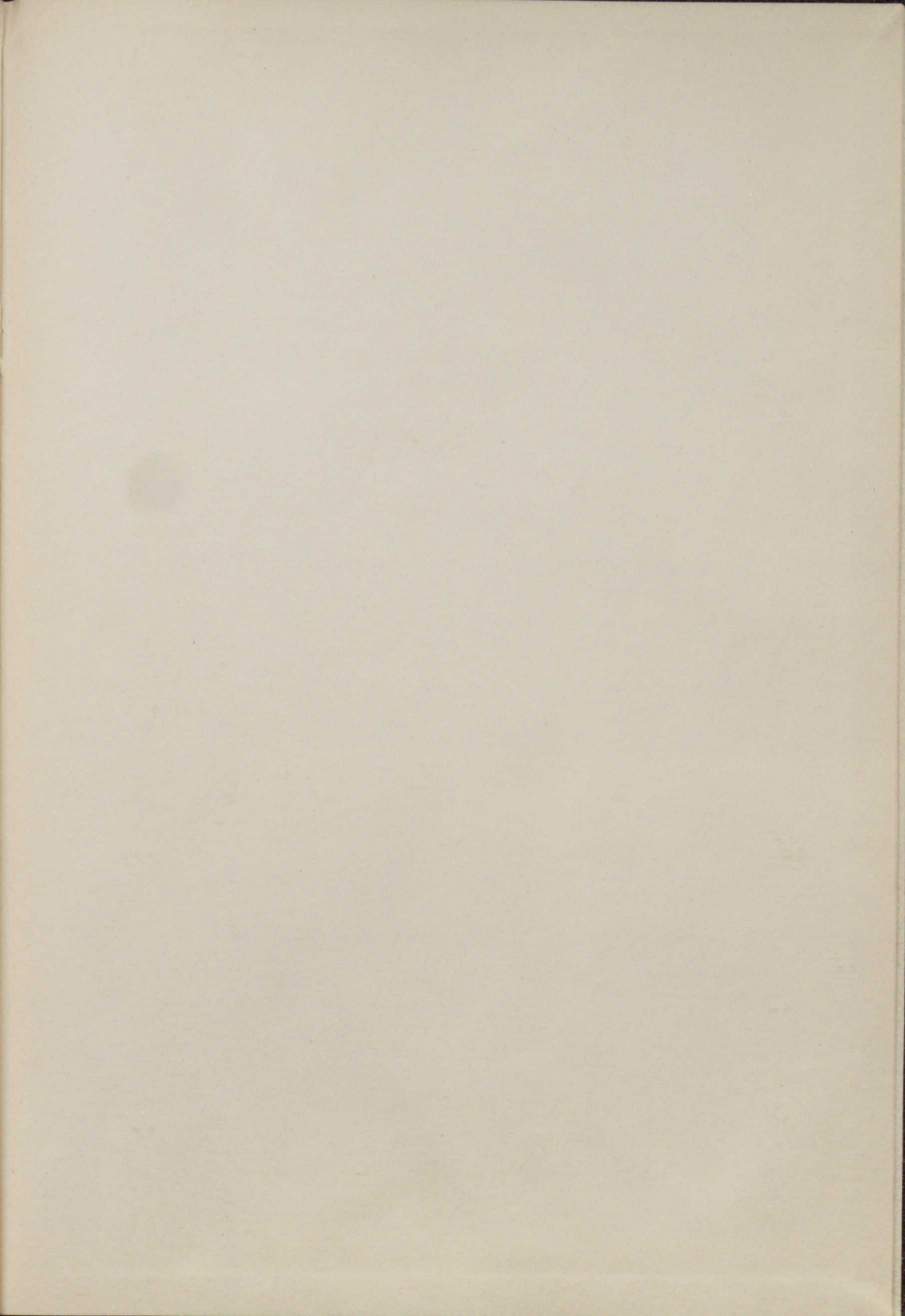
This act shall be submitted to the legal voters of said town at the state election in the year nineteen hundred and sixteen for their acceptance or rejection. At such election the polls shall be open not less than eight hours and the vote shall be taken by ballot in answer to the following question to be placed thereon: — "Shall an act passed by the general court in the year nineteen hundred and sixteen, entitled 'An Act to incorporate the City of Peabody' be accepted?"

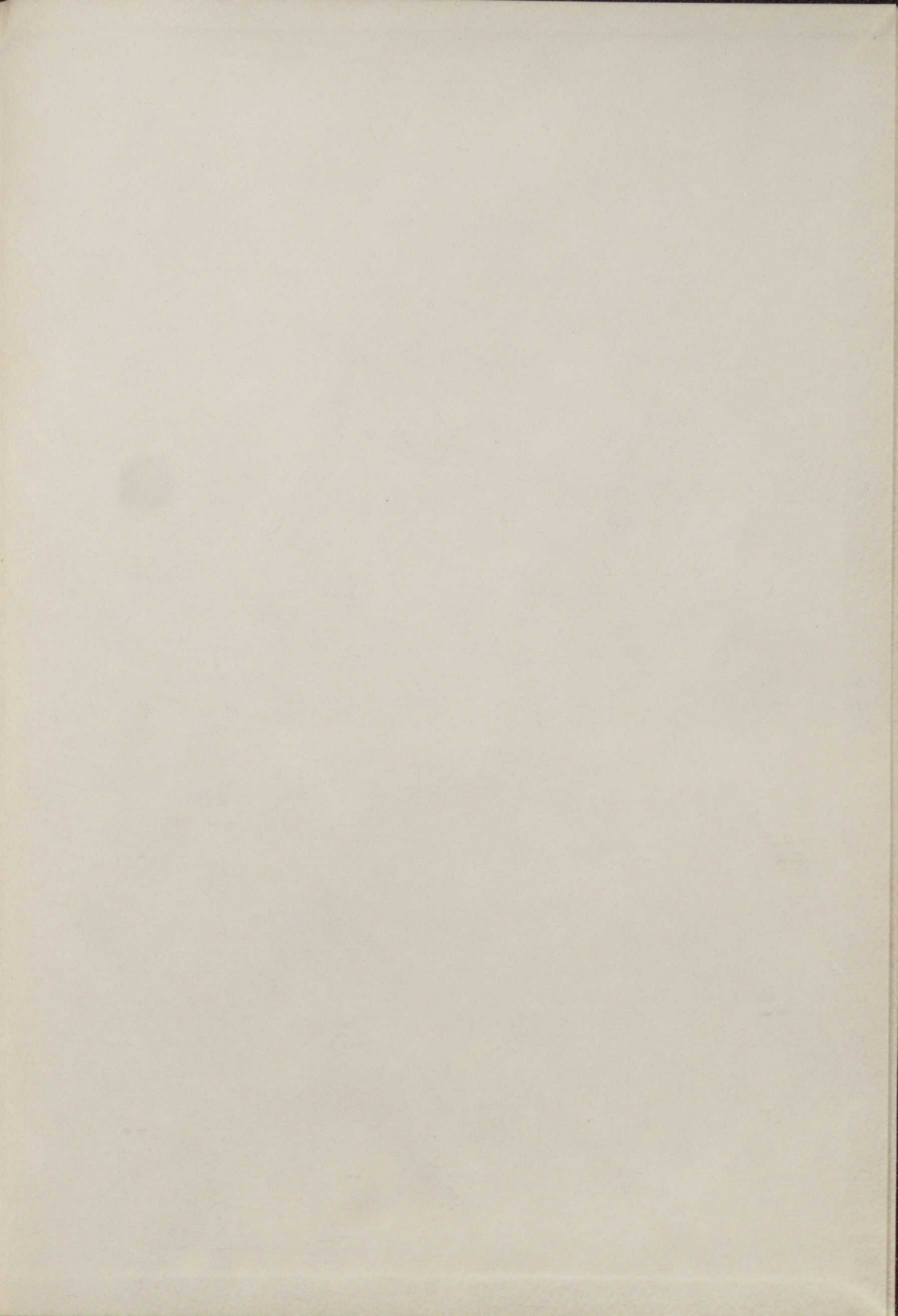
☐ Yes

☐ No

And if a majority of the votes cast thereon are in the affirmative, the same shall thereupon take full effect; but not otherwise. So much hereof as provides for its submission to the voters of said town shall take effect upon its passage.

Approved May 8, 1916.





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